



DEPARTMENT OF VETERANS AFFAIRS
DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES MANAGEMENT
WASHINGTON DC 20420

MAY 13 2004

MEMORANDUM FOR HUMAN RESOURCES MANAGEMENT OFFICERS

SUBJECT: Veterans Canteen Service Employees and Employment in the Competitive Service

Section 304 of P.L. 108-170 amended 38 U.S.C. 7802 to provide that a current Veterans Canteen Service (VCS) employee appointed under that section may be considered for an appointment to a VA position in the competitive service in the same manner that a VA employee in the competitive service is considered for transfer or placement to such position. The attached Human Resources Management Letter (HRML) provides guidance on these appointments.

The statute gives VCS employees the right to apply and be considered for positions in the competitive service as of the date of enactment – December 6, 2003. Vacancy announcements must provide fair and equal notice that VCS employees may apply. For those VCS employees who lost consideration for vacancies, including those announced under merit promotion procedures since December 6, 2003, appropriate redress should be taken to correct these actions. We strongly encourage you to contact VCS employees who were not considered for positions, including those who were not properly notified of their eligibility to apply for vacancies.

If a selection has been made, the corrective action should include giving priority consideration for the next equivalent or similar vacancy, or vacating the selection, re-announcing providing adequate notice to VCS employees, and completing the selection process again.

If a selection has not been made, you should re-announce the vacancy and include an appropriate statement that provides fair and equal notice to all VCS employees within the area of consideration, for example, the medical center or station, that they may apply for the position.

Please ensure that this memorandum receives the widest dissemination in your HR office. It is critical that we quickly resolve any corrective actions for VCS employees. Questions related to this section of the legislation may be referred to Recruitment and Placement Policy Service (059), Office of Human Resources Management, through email to staffingpolicy059/vaco@mail.va.gov, or by telephone to (202) 273-9827.


C. J. Hogan

Attachment



DEPARTMENT OF VETERANS AFFAIRS
DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES MANAGEMENT
WASHINGTON, DC 20420

May 7, 2004

HUMAN RESOURCES MANAGEMENT LETTER NO. 05-04-03

Veterans Canteen Service Employees and Employment in the Competitive Service

1. Purpose. This Human Resources Management Letter (HRML) provides guidance to Department of Veterans Affairs (VA) servicing human resources (HR) officials on the appointment of Veterans Canteen Service (VCS) employees, appointed under 38 U.S.C. 7802, to VA positions in the competitive service under Title 5, U.S.C.

2. Background. Section 304 of P.L. 108-170 amended 38 U.S.C. 7802 to provide that a current VCS employee appointed under that section may be considered for an appointment to a VA position in the competitive service in the same manner that a VA employee in the competitive service is considered for transfer or placement to such position. The only limitations that may be imposed on a VCS employee appointed under 38 U.S.C. 7802 who applies for a competitive service position are the same limitations that would apply to a competitive service employee seeking transfer to that position. VCS employees may be considered for appointment to competitive service positions in any part of VA - the Veterans Health Administration, the Veterans Benefits Administration, the National Cemetery Administration, and staff offices - when all appointment, eligibility, and qualification requirements are met.

Section 304 of P.L. 108-170 (coverage) reads as follows:

Paragraph (5) of section 7802 is amended by inserting before the semicolon a period and the following: "An employee appointed under this section may be considered for appointment to a Department position in the competitive service in the same manner that a Department employee in the competitive service is considered for transfer to such position. An employee of the Service who is appointed to a Department position in the competitive service under the authority of the preceding sentence may count toward the time-in-service requirement for a career appointment in such position any previous period of employment in the Service."

3. Guidance.

a. Current VCS employees appointed under 38 U.S.C. 7802 to either management or non-management positions may compete, and be considered for, VA positions in the competitive service. Their applications and eligibility for employment are to be considered as if they are already in the competitive service. All other Title 5

HUMAN RESOURCES MANAGEMENT LETTER NO. 05-04-

competitive service eligibility requirements must be met, including U.S. citizenship, qualifications, employment of relatives restrictions, etc. Existing Title 5 regulations and policies should be followed in determining qualifications, setting pay, determining benefits eligibility, etc. No interchange agreement is needed for these conversions in VA since this eligibility is based on statute.

b. A current VCS employee on a permanent appointment may be considered for, and appointed to, permanent or term competitive service positions in VA in accordance with the merit promotion program and its requirements, including into positions with no known promotion potential via true reassignments (same exact salary) and changes to lower grade. However, a VCS employee on a new permanent appointment in VCS may not be moved from his/her position until 90 days have elapsed, in the same manner that an employee in the competitive service must wait 90 days after a competitive appointment before any substantial change in employment may be made, including duties, title, series, grade, work schedule, duty location, etc. Current VCS management employees are no longer required to serve continuously for at least 1 year in the VCS before they may be appointed to VA positions in the competitive civil service, as stipulated in the current interchange agreement. (NOTE: The existing interchange agreement covering VCS management employees is still applicable to their placements in other Federal departments and agencies.)

c. A current VCS employee on a temporary appointment may be considered for, and appointed to, temporary competitive service positions through appropriate competitive application and referral procedures. Based on 5 CFR 316.402(a), a current VCS temporary employee generally must apply and be selected through a Delegated Examining Unit (DEU) or Office of Personnel Management (OPM) competitive announcement in order to be considered for a temporary position (in the same manner that a Title 5 competitive service temporary employee would have to apply). However, if the current VCS temporary employee meets any of the eligibility requirements for a noncompetitive temporary appointment under 5 CFR 316.402(b), he/she may be noncompetitively appointed to a temporary competitive service position. A temporary VCS employee may not be appointed to permanent or term competitive service positions unless he/she has the same type of eligibility that would permit a temporary competitive service employee to be noncompetitively appointed to those permanent or term positions, or through the DEU/OPM competitive process.

d. According to P.L. 108-170, a VCS employee appointed to the competitive service in VA is to have any previous period of employment in the Canteen Service credited toward satisfying the service requirement for career tenure.

e. To ensure that all VCS employees are appropriately and uniformly advised that they may apply to internal merit promotion vacancies, vacancy announcements should include a statement such as the following:

HUMAN RESOURCES MANAGEMENT LETTER NO. 05-04-

Current [permanent and/or temporary, as applicable to the vacancy]
Veterans Canteen Service employees may apply for consideration under this
vacancy announcement.

f. A current permanent VCS employee who has completed a 1 year probationary period in the excepted service is not required to complete another 1 year probationary period upon conversion to the competitive service. A permanent VCS employee who is selected for a competitive service position and has not satisfied a full 1 year probationary period in the excepted service will be required to complete the remainder of the 1 year in a probationary status, upon conversion to the competitive service.

g. Time-in-grade restrictions generally do not apply to VCS employees appointed under 38 U.S.C. 7802 who apply for VA positions in the competitive service. Based on 5 CFR 300.603(b)(4), the advancement of an employee from a non-General Schedule (GS) position to a GS position is excluded from the provisions of the time-in-grade restrictions, unless the employee held a GS position under nontemporary appointment in the executive branch within the previous 52 weeks.

h. When a current VCS employee is selected for a competitive service position, use the following Nature of Action(s) (NOAs) and Legal Authority to process the conversion:

NOA:

- For Career Appointment: 500 – Conv to Career Appt
- For Career-Conditional Appointment: 501 – Conv to Career-Cond Appt

Legal Authority: ZLM (Cite: P.L. 108-170)

Under Remarks, cite any normally applicable remark(s) as you would for selection of a Title 5 employee, such as "Merit Promotion certificate # _____ and (date)."

4. Questions. Questions relative to the contents of this HRML may be referred to Recruitment and Placement Policy Service (059), Office of Human Resources Management, through email to staffingpolicy059/vaco@mail.va.gov, or by telephone to 202-273-9827 for referral to a HR Specialist.



T. J. Hogan